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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,721	03/29/2004	Jang Hui Cho	1740-000071/US/COA	9356
30593 7590 03/27/2007 HARNES, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195			EXAMINER BOCCIO, VINCENT F	
			ART UNIT 2165	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/27/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/810,721

Applicant(s)

CHO ET AL.

Examiner

Vincent F. Boccio

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Amendment and Response of 1/5/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17,19,21-26,28-34,36-42,44-50 and 52-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17,19,21-26,28-34,36-42,44-50 and 52-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 10/176,364.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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**DETAILED ACTION**

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 2165.

***Response to Arguments***

1. Applicant's arguments with respect to claims 17, 19, 21-26, 28-34, 36-42, 44-50, 52-64 have been considered but are moot in view of the new ground(s) of rejection.

The new grounds of rejection provided herein is based on an updated inventor search, wherein the examiner of record has deemed located related other relevant/related applications associated with this application, therefore, the examiner has rejected these claims under Provisional Obvious Double Patenting below.

The examiner requests applicant to identify all other related applications, which are deemed to have closely related claimed subject matter associated with this application to all other examiner's having related applications during prosecution or even submit Terminal Disclaimers to overcome possible double patenting issues that may arise.

***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 17, 19, 21-26, 28-34, 36-42, 44-50 and 52-64 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 14-15, 21-22 (medium claims), also claims 16-, 18-, 19-, directed to a method and apparatus for recording and reproducing of copending Application No. 10/810,823. Although the conflicting claims are not identical, they are not patentably distinct from each other because see below.

Regarding claim 17 of this application (10/810,721) is encompassed by the claim 1 of application (10/810,823),

- because '823 is deemed narrower for reciting an additional limitation of, "interleaved", wherein claim 17 does not recite this additional limitation, therefore the scope is different, but, to be reject-able under Obvious Double Patenting for being broader.

Regarding claims 19, 21, 22, 24, 25, recite the same as recited in claims 21, 22, 22, 14, 15 respectively and are deemed boarder in view of claim 17 and are rejected for substantially the same reasons as claim 17 as compared to claim 1.

Regarding claim 23, application claims fails to particularly recite,

- wherein the transport packets of each reproduction path are stored in separate physical domains of the data area from one another.

The examiner takes official notice that when recording two sub-channels (claim 25, '721), wherein each path represents a digital channel (claim 24, '721), as is obvious to record more

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than one channel at the same time in the art is known and therefore, it would have been obvious to further recite wherein the transport packets of each reproduction path are stored in separate physical domains of the data area from one another, is obvious that the data for more than one stream is recorded to a separate physical domain on a medium, such as a CD, DVD, as is obvious each path is recorded separately from each other, as is conventionally obvious to those skilled in the art.

Claims 26, 28-34, 36-42, 44-50 and 52-64, directed to method and apparatus for recording and reproduction, based on the rejection above and claims in '823, directed to the same, are also rejected under obvious double patenting, for deemed being obvious over '823 claims, since substantially the same are also rejected in view thereof.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Allowance of claim(s) of the instant application would result in a time-wise extension of the monopoly that may be granted or to be granted for the invention defined by patent claim(s), therefore, provisional obviousness type double patenting is deemed proper.

#### Contact Information

Any inquiry concerning this communication or earlier communications should be directed to the examiner of record Vincent F. Boccio whose telephone number is (571) 272-7373.

The examiner can normally be reached on between Monday thru Friday between (7:30 am to 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272-4146.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

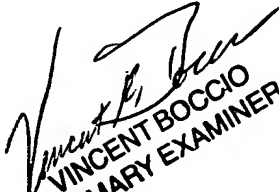
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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Primary Examiner, Boccio, Vincent  
3/26/07

  
VINCENT BOCCIO  
PRIMARY EXAMINER